

Justin Fok, Esq., CSB#242272  
Law Offices of Jean D. Chen  
2107 N. First Street, Suite 400  
San Jose, CA 95131  
Telephone: (408) 437-1788  
Facsimile: (408) 437-9788  
Email: [jfok@jclawoffice.com](mailto:jfok@jclawoffice.com)

Attorney for Plaintiff  
Lei Hua

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

Lei Hua, ) Case No. C 07-5184 HRL  
Plaintiff, )  
v. )  
**Michael Chertoff**, Secretary of the )  
Department of Homeland Security; )  
**Emilio T. Gonzalez**, Director of United States )  
Citizenship and Immigration Services; )  
Defendants. )  
JOINT CASE MANAGEMENT )  
STATEMENT; AND [PROPOSED] )  
ORDER )  
)

Plaintiff, by and through his attorney of record, and Defendants, by and through their attorney of record, hereby submit this Joint Case Management Statement (JCMS). The parties respectfully request that the Court take this JCMS as the Case Management Statement for this case and vacate the Case Management Conference which is currently scheduled for January 29,

1 2008.

2 **1. Jurisdiction and Service**

3 The basis asserted by Plaintiff for this Court's jurisdiction is 28 U.S.C. § 1331, 28 U.S.C. §  
4 1331, and 5 U.S.C. §§ 551, 702. The parties do not dispute that venue is proper in this district.  
5 No issues exist regarding personal jurisdiction or venue, and no parties remain to be served.

6 **2. Facts**

7 Plaintiff is a native of China who applied to adjust his status to lawful permanent residence with  
8 the United States Citizenship and Immigration Services (USCIS) on May 2, 2005. The USCIS  
9 has yet to adjudicate Plaintiff's I-485 application. The plaintiff filed this action on October 10,  
10 2007, seeking an order from this Court directing USCIS to adjudicate his I-485 application.

11 **3. Legal Issues**

12 1. Whether this Court should dismiss the plaintiff's action for failure to state a claim and for lack  
13 of subject matter jurisdiction.

14 2. Whether the delay in the adjudication of Plaintiff's I-485 application is unreasonable.

15 **4. Motions**

16 No motions have been filed. The parties intend to file cross-motions for summary judgment.

17 **5. Amendment of Pleadings**

18 No parties, claims or defenses are expected to be added or dismissed.

19 **6. Evidence Preservation**

20 The parties do not have any evidence that falls within this category.

21 **7. Disclosures**

22 The parties believe that review will be confined to the administrative record and thus the  
23 disclosure requirements of Fed. R. Civ. P. 26 do not apply.

24 **8. Discovery**

25 The parties do not intend to take any discovery in this case.

26 **9. Class Actions**

27 N/A

28 **10. Related Cases**

The parties are not aware of any related case or cases.

## 11. Relief

The plaintiff asks this Court to direct the USCIS to adjudicate his I-485 application within 60 days of receiving the Court's order.

## **12. Settlements and ADR**

On January 9, 2008, the parties were excused from the formal ADR process.

### **13. Consent to Magistrate Judge for All Purposes**

The parties have consented to proceed before a Magistrate Judge.

## 14. Other References

The parties do not believe that this case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

## **15. Narrowing of Issues**

The parties do not believe that the issues can be narrowed by agreement or by motion, and do not have suggestions to expedite the presentation of evidence at trial, and any request to bifurcate issues, claims or defenses.

## **16. Expedited Schedule**

The parties believe this case can be resolved on cross motions for summary judgment.

## 17. Scheduling

The parties will notice and move for summary judgment with the following proposed due dates:

Parties' cross-motions for summary judgment: February 12, 2008

## Parties' opposition motions: February 26, 2008

The Parties respectfully request that the Court take this matter under submission based on the above motions and that no summary judgment hearing be held for this case. Should the Court deem that a hearing is necessary, the parties propose a summary judgment hearing date of March 18, 2008.

18. Trial

The parties do not anticipate the need for a trial in this case.

## **19. Disclosure of Non-Party Interested Entities or Persons**

1 The plaintiff filed the "Certification of Interested Entities or Persons" required by Civil Local  
2 Rule 3-16 on October 10, 2007.

3 **20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this  
4 matter**

5 None.

7 Dated: January 22, 2008

Respectfully submitted,

8 \_\_\_\_\_/s/  
9 Justin G. Fok  
10 Law Offices of Jean D. Chen  
Attorney for Plaintiff

12 Dated: January 22, 2008

13 \_\_\_\_\_/s/  
14 Ila C. Deiss  
United States Attorney  
Attorney for Defendants

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## ORDER

The Case Management Statement and Proposed Order are hereby adopted as the Case Management Order for the case and the parties are hereby ordered to comply with this order. The Case Management Conference currently scheduled for January 29, 2008, is hereby vacated.

Dated: \_\_\_\_\_

Howard R. Lloyd  
United States Magistrate Judge

## ORDER

The Case Management Statement and Proposed Order are hereby adopted as the Case Management Order for the case and the parties are hereby ordered to comply with this order.

Dated: \_\_\_\_\_

Howard R. Lloyd  
United States Magistrate Judge